



Fugitive rocks U.S.-Costa Rica relations

By Gillian Gillers

Two U.S. marshals were waiting in San José July 17 to escort Chere Lyn Tomayko to the United States, where she would face trial on kidnapping charges.

But Tomayko, a U.S. citizen, never got on her 1 p.m. flight that day. Costa Rica's highest court had stopped the extradition that morning. A week later, Tomayko, 46, was given refugee status and released from jail.

It was the final chapter in an emotional saga that has engrossed the public and the press, angered the U.S. State Department and weakened an extradition treaty, but that has also possibly bolstered rights here for domestic violence victims.

Alexandria Tomayko was born into a troubled relationship in Fort Worth, Texas, in 1989. Her parents, Chere (pronounced Sherry) Lyn Tomayko and Roger Cyprian, fought over her in court as they repeatedly broke up and got back together.

Tomayko said Cyprian abused her, Alexandria and Chandler, Tomayko's older daughter from a previous relationship.

"It was severe enough to think that somebody wasn't going to get out of there alive," said Tomayko, but she declined to give details.

Cyprian acknowledged he was a control freak, but he said he never hurt Tomayko or his daughter.

"There was no hitting. We would argue, but there was no verbal abuse," he said.

In late 1996, a state judge gave Tomayko and Cyprian joint custody over their daughter but ordered Tomayko to keep Alexandria in Tarrant County in north central Texas.

Five months later, Tomayko fled to Costa Rica with her two daughters. She started dating Javier Montero, a Costa Rican veterinarian from Heredia, north of San José. She moved onto his farm in the mountains. They have since had two girls together.

Savings and an inheritance kept her afloat, she said. She also taught English at her kids' elementary school and sold milk, yogurt and cheese made from goats.

Back in the United States, the FBI began looking into her case. In 2000, a federal grand jury in Texas indicted her for international parental kidnapping, which carries a maximum penalty of three years in prison and a \$250,000 fine.

Meanwhile, Cyprian began a quest to find his daughter. He printed some 5,000 flyers and posted them in Texas and Louisiana, where he had family. He said he hired four private investigators, costing more than \$20,000.

"I've never wanted to walk away from one of my kids," said Cyprian. "My whole idea was, I got to get my side to Alex and let her know that there is a father who has spent 19 years just trying to be her dad."

Alexandria said Cyprian abused and neglected her. When she was 4, she said, she learned to cry silently because Cyprian would get mad when she cried aloud.

"He wasn't a dad, honestly," she said. "I have no wish whatsoever to go back to the States. It's sort of sickening, just the possibility."

Last Sept. 19, Tomayko was taking her youngest daughter, Ariana, home from preschool, when Interpol arrested her at the United States' request. She would spend the next 10 months in El Buen Pastor, a woman's prison in the southern San José suburb of Desamparados, while her family fought a roller-coaster legal battle.

A devout Christian, Tomayko spent her time praying and reading the Bible. Her family brought her gluten-free meals every day because she has Coeliac, an autoimmune disease that leaves her weak and weary.

For months, Tomayko's future looked grim. An Heredia court ruled in January that she should be extradited. Tomayko lost on appeal.

Meanwhile, Immigration twice rejected Tomayko's request for refugee status. She married Montero in April, but citizenship would not kick in for two years.

Then Tomayko's luck changed. Some five hours before she was to leave the country July 17, the Constitutional Chamber of the Supreme Court (Sala IV) accepted an appeal.

Six days later, the Public Security Ministry overruled Immigration and granted Tomayko refugee status, finding she had suffered domestic abuse in the United States

"In this case, we can see there was a real fear of persecution," Minister Janina del Vecchio wrote. "But we make absolutely clear that not all victims of domestic violence will automatically be granted refugee status."

Costa Rican authorities have declined to release any records documenting Tomayko's allegations of abuse.

Saying refugees cannot be extradited, the Sala IV judges, voting 6-1, released Tomayko on July 24.

Alexandria, now 19, Montero, and their two daughters, Anna Sofía, 8, and Ariana, 5, greeted her at the door of the prison with hugs, kisses and shouts of "Mommy!"

"My heart can only think about going home and sleeping with my children and my husband," said Tomayko.

High-profile allies helped Tomayko's case. Marta Iris Muñoz, director of the Public Defender's office and Jeannette Carrillo, head of the National Institute for Women (INAMU), filed appeals on her behalf, and they hailed her release as a triumph for human rights and women's rights. Much of the press and the public rooted for her.

"There was a national effort to help," Montero said.

Not everyone is pleased. By releasing Tomayko when her extradition was well underway, Costa Rica flouted a 1982 extradition treaty with

the United States, said Rubén Hernández, a private constitutional and international lawyer in San José.

The U.S. Embassy said the case could threaten future U.S. judicial cooperation with Costa Rica.

"We absolutely disagree with the implied assumption that the U.S. judicial system could not protect Ms. Tomayko against potential or alleged abuse," the embassy said in statement. But President Oscar Arias cheered Tomayko's release and dismissed U.S. authorities' ire.

"This is a sovereign nation, and we have the right and obligation to make decisions that we think are fitting for the country. In this case, we tried to protect human rights," he told reporters.

Arias went on to criticize the United States for refusing to sign the Kyoto Protocol on climate change or join the International Criminal Court (ICC) in The Hague, according to the daily La Nación. By alluding to those treaties, Hernández said, "Arias is sending the message, 'You can't be such sticklers about violations of international law because you are always flouting those laws.'"

The United States is not a signatory to Kyoto or the ICC treaty.

Cyprian also was displeased with the ministry's decision. He hired a Costa Rican lawyer to challenge Tomayko's refugee status in court, even though her extradition would not reunite him with Alexandria, now an adult.

"The fight is over," said Cyprian, now married with children. "I have to focus on the kids I have here."

Back at home with her four daughters and husband, Tomayko could say the same thing. She said she still feels frail, tired and traumatized from her run through the Costa Rican justice system. Now she wants to relax and be a mom.

"I'm looking forward to having that barbecue or family picnic."